223-cv-00955-KJN Document 1 Filed 05/22/23

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F.C.T. Herlong P.O. Box 800 Herlong, CA 96113

CLERK, U.S. DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA BY

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Jose Gambino-Ruiz

٧.

WARDEN, F.C.I. HERLONG, RESPONDENT.

CASE NO. 200R 2.23CV0955- HTN

MOTION PURSUANT TO U.S.C. § 2241 SEEKING APPLICATION OF EARNED FEDERAL TIME CREDITS THROUGH THE FIRST STEP ACT (F.S.A.)

inmate serving a sentence at F.C.I. Herlong in the State of California. He moves this court to grant this writ, and ORDER the Bureau of Prisons (BOP) to apply the earned FSA time credits that he has earned through various programs, in accordance with the Act.

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This Court, having familiarity with Motions of this nature, should read the filing, examine the attached supporting evidence, and swiftly order the BOP to apply the earned time credits.

I. ARGUMENT

Since the passage of the First Step Act, there has been serious deficiencies in the application of the 'earned time credits' to federal inmates, especially ones with possible imigration issues.

The BOP has waffled, and has changed the prgrom statement to allow all persons that do not have a "FINAL ORDER" of deportation to have earned credits applied, however, the BOP system is not making the sentence adjustments uniformly, and many people are having to

Case 2:23-cv-00955-KJN Document 1 Filed 05/22/23 Page 2 of 4 file writs in federal courts under 28 U.S.C. § 2241, seeking the credits to be ORDERED by courts. It is under this pressure, that the BOP seems responsive. Accordingly, this petitioner is asking for the same relief that is due.

Here, the petitioner has a PATTERN SCORE of ______, and is further classified as a ______ risk of recidivism. Due to these classifications, he is eligible to have the credits applied.

Thus far, this petitioner has earned JBD days towards early release, but his credits have not been applied thus far, and is asking this court to ORDER them to be properly applied according to the Act.

The petitioner has a tentative release date of: \$\sum_{\text{\$0.95}}\$.

This petitioner is **not** subject to any final order of deportation, and so until that is established by an Immigration Court, his eligibility to earn and have applied, FSA time credits is a liberty interest that must be applied universally to all persons.

The BOP's current Program Statement that details the implementation of the First Step Act of 2018 clearly shows the language stricken that was used previously to bar persons with 'possible' deportation issues, or warrants, or detainers, or pending charges. Because none of these situations effect the actual release of an inmate, because these is no RCC/HC placement for these people, the effects of earning good time or earned FSA times are uneffected by possible, or pending immigration issues. As such, these credits must be applied.

Attached is EXHIBIT "A", FSA TIME CREDIT ASSESSMENT, showing how many credits this petitioner has earned. Attached is EXHIBIT "B",

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PROGRAM REVIEW SHEET, showing the RISK to RE-OFFEND level and the current release date without the credits.

These exhibits demonstrate that this petitioner has earned the credits, is eligible to receive them, and has a score that commensurates with thee application of the Act.

II. RELIEF REQUESTED

For all of the above mentioned reasons, this petitioner respectfully requests that this Court GRANT the writ, and further ORDER the BOP to apply the earned credits in accordance with the First Step Act, and to further calculate the release date to reflect the proper application of these earned time credits.

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Dated	this/1	day	of	Incita.	20	27.

Respectfully submitted,

Pro Se

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CERTIFICATE OF SERVICE

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I declare, under	penalty of perjury (Title	28 U.S.C. §174	16), that the foregoin	g is true and conect:	
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